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AB-954 Dependency: court-ordered services. (2023-2024)

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Assembly Bill No. 954

CHAPTER 552

An act to amend Section 362 of, and to add Section 362.8 to, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 954, Bryan. Dependency: court-ordered services.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents of the court under certain circumstances, including when the child suffered or there is a substantial risk that the child will suffer serious physical harm, or a parent fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law authorizes a court to make reasonable orders for the care, supervision, and support of a dependent child, as specified. Existing law establishes the grounds for removal of a dependent child from the custody of the child's parents or guardian, and requires the court to order the social worker to provide designated child welfare services, including family reunification services, as prescribed. Existing law also requires family maintenance services to be provided or arranged for by county welfare department staff in order to maintain a child in their own home, and requires the services to be available without regard to income to specified families, including families in which the child is in the care of a previously noncustodial parent under the supervision of the juvenile court.

This bill would require a court to inquire whether a parent or guardian can afford court-ordered services when making reasonable orders for a dependent child. The bill would prohibit a court from declaring at specified review hearings that a parent or guardian is noncompliant with a court-ordered case plan when the court finds that the parent or guardian is unable to pay for a service or that payment for a service would create an undue financial hardship for them, and the social worker did not provide a comparable free service that was accessible and available to them, as specified.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature that termination of reunification services shall not be based solely on a parent's or guardian's inability to pay for a court-ordered service.

SEC. 2. Section 362 of the Welfare and Institutions Code is amended to read:

362. (a) If a child is adjudged a dependent child of the court on the ground that the child is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including medical treatment, subject to further order of the court.

(b) (1) To facilitate coordination and cooperation among agencies, the court may, at any time after a petition has been filed, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency that the court determines has failed to meet a legal obligation to provide services to a child for whom a petition has been filed under Section 300, to a nonminor, as described in Section 303, or to a nonminor dependent, as defined in subdivision (v) of Section 11400, regardless of the status of the adjudication. In any proceeding in which an agency is joined, the court shall not impose duties upon the agency beyond those mandated by law. Nothing in this section shall prohibit agencies that have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services.

(2) The court has no authority to order services unless it has been determined through the administrative process of an agency that has been joined as a party, that the child, nonminor, or nonminor dependent is eligible for those services. With respect to mental health assessment, treatment, and case management services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, the court's determination shall be limited to whether the agency has complied with that chapter.

(3) For the purposes of this subdivision, "agency" means any governmental agency or any private service provider or individual that receives federal, state, or local governmental funding or reimbursement for providing services directly to a child, nonminor, or nonminor dependent.

(c) If a child is adjudged a dependent child of the court, on the ground that the child is a person described by Section 300, and the court orders that a parent or guardian shall retain custody of the child subject to the supervision of the social worker, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency designated by the court.

(d) The juvenile court may direct any reasonable orders to the parents or guardians of the child who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out this section, including orders to appear before a county financial evaluation officer. That order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program operated by a community college, school district, or other appropriate agency designated by the court. A foster parent or relative with whom the child is placed may be directed to participate in such a program in cases in which the court deems participation is appropriate and in the child's best interest. The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court's finding that the child is a person described by Section 300.

(e) If a child is adjudged a dependent child of the court, the juvenile court may direct any reasonable orders to the parents or guardians of the child who is the subject of any proceedings under this chapter to ensure the child's regular school attendance and to make reasonable efforts to obtain educational services necessary to meet the specific needs of the child.

(f) When making reasonable orders under this section, the court shall inquire whether a parent or guardian can afford the court-ordered services.

SEC. 3. Section 362.8 is added to the Welfare and Institutions Code, to read:

362.8. (a) At a review hearing where a parent or guardian's participation in reunification or family maintenance services is considered by the court, including, but not limited to, hearings pursuant to Sections 364, 366.21, 366.22, 366.25, and 388, the parent or guardian shall not be considered to be noncompliant with the court-ordered case plan when the court finds that the parent or guardian is unable to pay for a service or that payment for a service would create an undue financial hardship for the parent or guardian, and the social worker did not provide a comparable free service that was accessible and available to the parent or guardian to comply with the case plan during the period subject to the court's review.

(b) For purposes of this section, a parent or guardian who qualifies for the services of court-appointed counsel pursuant to Section 317 is presumed to be unable to pay the cost of court-ordered services.